STATE

Anti-boycott law receives closer look

88-year-old statute ignored in fight over Amendment 2

By **Jeff Thomas**
Gazette Telegraph

The following sentence is illegal: Boycott Holly Sugar.

You can look it up in Title 8, Article 2, Section 112 of the Colorado Revised Statutes: "It is unlawful to print or circulate any notice of boycott. . . ."

It's been the law for 88 years. And amid the post-Amendment 2 uproar over boycotts, it's getting renewed attention.

Passage of Amendment 2, which bans laws that protect gays and lesbians from discrimination based on sexual orientation, prompted opponents to ask the rest of the nation to stop doing business with Colorado. Boycott Colorado, the biggest group, has specifically targeted Holly Sugar and other companies with operations in the state.

But none of the boycotters, hoping economic pressure will topple Amendment 2, fears the dusty anti-boycott statute. And none of the anti-boycotters, tired of seeing Colorado maligned, plans to use it.

For one thing, it treads on the constitutional guarantee of free speech.

"There may be some First Amendment problems here," said John Suthers, 4th Judicial District attorney, after reading over the statute.

For another, it has been widely ignored — probably because the disregard for the First Amendment is so apparent, Suthers said.

The law, passed in 1905, is a vestige of turn-of-the-century labor wars when unions frequently used boycotts to strong-arm employers, said Wally Brauer, a Denver union lawyer. A sympathetic Legislature gave business a weapon to fight back.

It took 66 years for anyone to bring a lawsuit under the statute, and state lawyers are trying to unearth the 1971 case to find out what the court said.

Had the law been used more frequently, it might have cut short the long, bitter boycott of Coors Brewing Co. during the 1970s and 1980s. AFL-CIO members slapped "Boycott Coors" bumper stickers on their cars and trucks in solidarity with brewery brethren who were replaced with non-union workers.

It's questionable, however, whether the 1905 law would have withstood scrutiny. Courts long have punished only slander and libel — harmful speech that incorrectly states the facts. "Boycott Coors" may hurt the company, but it's not fact — it's opinion, which generally is protected.

"There's no question in my mind that the statute is unconstitutional. That's just free speech," said Brauer.

In the wake of Amendment 2, Boycott Colorado has distributed its own list of companies to avoid, including Candy's Tortillas, Monfort Meats, Teledyne/Water Pik and Jolly Rancher Candy.

"The only facts we're putting out are that these companies are in Colorado, and Colorado passed Amendment 2. Consumers can make their own decisions," said Boycott Colorado spokeswoman Terry Schleder.

Schleder, unaware of the 88-year-old law, said she would have Boycott Colorado lawyers look it over.

But "initially, I'm not too concerned," she said. The group plans to issue an expanded list of boycott targets later this month.

No one seems to be losing sleep over the law or its relatively painless maximum pen-

See **BOYCOTT**/B4

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Terry Schleder, spokeswoman for Boycott Colorado, says she doesn't plan to worry about a statute that prohibits printing or circulating any notice of boycotts in Colorado. Schleder, right, stands with Boycott Colorado supporter Robert Briggs Daniels.

> "There's no question in my mind that the statute is unconstitutional. That's just free speech."
>
> **Denver union lawyer Wally Brauer**

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